

REMARKS/ARGUMENTS

This is in response to an official action dated December 24, 2008. Reconsideration is respectfully requested.

Claim rejections under 35 USC § 112

The Examiner rejected Claims 1-4 and 6 under 35 USC 112. Applicant has amended independent claim 1, claims 2-4 and 6 are thereby amended as well. Concerning the rejection of the term, Applicant points to page 4, lines 26-32, where the meaning of the term "blocked" as used in the claim is given. With the current amendment, the rejection under 112 should be removed.

Claim rejections under 35 USC § 102

The Examiner rejected Claims 1-3 and 7 as being anticipated by Dimacopoulos (US Patent No. 4,173,604). Applicant reiterates that anticipation requires identity of invention. *See* MPEP 2131. *See also Glaverbel Societe Anonyme v. Northlake Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a single prior art reference and arranged as in the claims. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). There must be no differences between what is claimed and what is disclosed in the prior art reference. *In re Kalm*, 154 USPQ 10, 12 (CCPA 1967). Moreover, it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference. *Ex parte Levy*, 17 USPQ2d 1461, 1462 (BPAI 1990). Applicant submits that the Examiner merely reads applicant's claims into the anticipatory reference, regardless of the reference's disclosure.

More specifically, applicant claims "a housing comprising a plurality of parallel slots serving as an exit port". A "plurality of slots" means more than two slots. "Parallel slots" in this context would mean more than two slots arranged in a parallel fashion. Nowhere is such structure found in the reference Dimacopoulos. Instead, Dimacopoulos discloses two upper air inlet ports and two lower air outlet ports (see numerals 15 and 16 in Fig.1, as well as the

description in Col. 4, lines 33 and 34). This structure is not a plurality of slots".

Further, Dimacopoulos arrangement of air flow is entirely differently generated. A fan 20 is arranged in the housing of Dimacopoulos such that the fan blows directly onto the surface of the container. Applicant's claims just the opposite, applicants avoid blowing onto such surface, instead, applicant claims an airflow, as more clearly amended "an electrically-driven fan, the plane of rotation of the fan is perpendicular to the plane of the planar evaporation surface, the fan being mounted such that the fan blows a current of air across the evaporation surface ". Again, this is in total opposite of Dimacopoulos arrangement. Thus, the Dimacopoulos does not anticipate applicant's invention as claimed in claim 1 and, since claims 2-3 and 7 directly or indirectly depend on claim 1, these claims are also not anticipated.

Claim rejections under 35 USC § 103

The Examiner rejected claims 4 and 6 as being unpatentable over Dimacopoulos as applied to claim 1, and further in view of Purzycki (U.S. Patent No. 4,913,350.) In view of the further amendment to independent claim 1, dependent claims 4 and 6 are also further amended. As pointed out before, the Examiner admits that Dimacopoulos does not show "at least one flat vane raised on the planar surface essentially perpendicular to the surface" of the horizontal evaporation surface. Instead, the Examiner points to Purzycki for providing the missing disclosure. However, applicant submits that Dimacopoulos completely teaches away from a combination with Purzycki. Dimacopoulos discloses a can for the supply storage of the vapor generating material. Immediately beneath and parallel to the can lid 30 is an inner closure member 38 which serves as a dispensing diaphragm, the inner closure member 38 is exposed to the atmosphere upon removal of the removable lid portion 34 over the entire area circumscribed by the peripheral score 32. The inner closure member 38 is a capillary action membrane adapted to receive vapor generating liquid from another capillary action membrane in contact with a localized region and transport the vapor generating liquid by capillary action over its entire disc so as dispense vapors to the atmosphere from its entire exposed upper surface defined within peripheral score 32. The membrane may be blotting paper or non-woven fabric. A tiny hole 40 (0.020 inch to 0.050 in diameter to avoid spillage) is provided through the center of inner closure member 38 which serves as a pressure relief port to prevent buildup of vapor pressure in the head

space between the inner closure member 38 and the vapor generating liquid in receptacle 28 under elevated temperature conditions. Such arrangement teaches away from combining the Purzucki reference with the Dimacopoulos reference. In order to fully utilize the capillarity capacity, Purzycki's capillary members are freely held by the top housing portion. The capillary members do not reach the bottom of the housing. Combining such capillary member with Dimacopoulos would not be feasible, because the capillary members would not be stable in an opening through the thin blotter paper or non-woven fabric of Dimacopoulos. In addition, the length of the external portion of the capillary members would most likely interfere with the fan blades of Dimacopoulos. In addition, a person of skill in the art would not enlarge the flat evaporation membrane of Dimacopoulos which is optimal with the parallel fan arrangement and provide vertical surfaces protruding from the membrane to enhance the evaporation. But even if the combination of references would be possible somehow, it would not provide applicant's invention, because claim 4 calls for at least one flat vane raised on the planar surface which is essentially perpendicular to the surface and which extends across the surface in the direction of the air flow. Again, even if the combination was possible, the capillary member of Purzycki are not "flat" (they are long), nor are they "raised on the planar surface" (Purzycki shows the long capillary members protruding through the surface of the housing or when combined through the thin membrane) and further, they are not "perpendicular to the surface which extends across the surface in the direction of the air flow".

In addition, concerning claim 6, the references do not make obvious a structure in which "in which at least one vane is adapted to be rotated from a position parallel to the gas flow to a flow-blocking position transverse to the flow."

Thus, Applicant submits that a person skilled in the art would not combine the references and would not obtain applicant's claimed invention. For these reasons, applicants submit that the references do not render the claims obvious and the rejection should be withdrawn.

PETITION AND CONDITIONAL PETITION FOR EXTENSION OF TIME

Applicant requests an extension of time for filing this response by 1 (one) months. The Assistant Commissioner is authorized to charge the fee associated with this extension to Deposit Account No. 14-1263.

If entry and consideration of the amendments above requires further extensions of time, Applicants respectfully request that this be considered a petition therefore. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
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